

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Facility Need Review
Major Alterations
(LAC 48:I.12537)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.12537 in the Medical Assistance Program as authorized by R.S. 36:254. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Facility Need Review Program (FNR) in order to remove outpatient abortion facilities from the FNR process, and to correct the formatting of §12503 as a result of the promulgation of a January 20, 2015 Rule governing the FNR process (*Louisiana Register*, Volume 41, Number 10).

The department has now determined that it is necessary to amend the provisions governing the FNR program in order to provide exceptions pertaining to the expiration of facility need review approvals for beds that are de-licensed and decertified when facilities undergo major alterations.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration
Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter F. Exception Criteria for Bed Approvals

§12537. Temporary Inactivation Due to Major Alterations.

A. A licensed nursing facility, ICF/ID or Level IV ARCP which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of the facility's facility need review (FNR) bed approvals provided that:

1. The nursing facility, ICF/ID or Level IV ARCP submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its FNR bed approvals. Such written request shall include the following:

a. a statement that the nursing facility, ICF/ID or Level IV ARCP is undergoing major alterations to ensure or enhance the health, safety and welfare of the residents;

b. a statement that the major alterations to the nursing facility, ICF/ID or Level IV ARCP will cause a certain number of beds to be de-licensed and decertified;

c. an attestation that the alterations are the sole causal factor in the request for temporary inactivation of the FNR bed approvals;

d. the anticipated start date of the temporary inactivation of the FNR bed approvals;

e. the anticipated end date of the temporary inactivation of the FNR bed approvals; and

f. the number of FNR bed approvals requested to be inactivated temporarily.

2. Upon receiving a completed written request by a facility for temporary inactivation of a certain number of FNR bed approvals, the department shall review the request to determine whether the request satisfies the requirements of this section. If the requirements of this section are met, the department shall issue a notice of temporary inactivation of a certain number of the facility's FNR bed approvals.

3. Upon completion of the major alterations, the facility shall submit to the department a completed written request to reinstate the FNR bed approvals that were inactivated due to the major alterations to the facility.

Note: The FNR bed approvals capacity, after major alterations are completed, shall not exceed the FNR bed approvals capacity of the nursing facility, ICF/ID or Level IV ARCP at the time of the request to temporarily inactivate a certain number of its FNR bed approvals prior to the major alterations.

4. The provisions of this Subsection shall not apply to a nursing facility, ICF/ID or Level IV ARCP which has voluntarily surrendered its license or has voluntarily disenrolled the facility's beds from Medicaid.

5. There shall be no effect upon the Medicaid reimbursement rate of a nursing facility or an ICF/ID that is undergoing major alterations pursuant to this rule during the period of the inactivation of the FNR approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, June 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary